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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/824,039
Filing Date: April 14, 2004
Appellant(s): SYLVAIN, DANY

Anthony J. Josephson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 12/08/2010 appealing from the Final Office action mailed July 20, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1 – 42

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN

REJECTIONS.” New grounds of rejection (if any) are provided under the subheading “NEW GROUNDS OF REJECTION.”

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant’s brief.

(8) Evidence Relied Upon

7,454,206	Phillips et al.	11-2008
6,801,528	Nassar	10-2004
2002/0128036	Yacht et al.	09-2002
20040122934	Westman et al.	6-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. Claims 1-3, 7- 8, 10, 19 -24, 28 – 29, 31, and 40 - 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. (US 7,454,206) in view of Nassar (US 6,801,528).

For claims 1 and 22, Philips et al. discloses a personal communication device and method for supporting a plurality of communication clients in a personal communication service device (Abstract, column 1 lines 47 – column 2 line 2), comprising: a) at least one packet communication interface (user interface and data storage comprising machine language instructions, Fig.2, 14 and 56; column 6 lines 10 - column 7 line 11); b) a control system

associated with the at least one packet communication interface and adapted to (processor, Fig.2, 54; column 6 line 10 - column 7 line 11); i) provide a plurality of packet communication clients which are associated with a unique ID, wherein the unique IDs facilitate packet communications with the plurality of packet clients (column 6 lines 64—column 7 line 2, 15 - column 8 line 2); ii) establishing packet communications with each of the plurality of packet communication clients via at least one packet communication interface, the packet communications for each of the plurality of packet communication clients associated with a corresponding one of the IDs (column 7 line 15 – column 8 line 2). Yet, Phillips et al. fails to teach that each of the unique IDs is uniquely associated with distinct service nodes.

However, Nassar discloses a method for enabling a subscriber to connect to multiple service providers simultaneously wherein an application or client is associated with a unique ID which is also associated with a distinct service node of a distinct service provider for the purpose of facilitating the routing of packets from the application or client to the distinct service node associated with the a distinct service provider (routers as service nodes wherein a subscriber can connect to one or more additional service providers (e.g. service provider A 180 and/or service provider B 190) via additional routers 120 and 125 during the packet session, Fig.1, 120, 125, 180, 190, Fig.6, Fig.7A and 7B, 601b, 605; Abstract; column 2 lines 11 – 41; column 3 lines 44 – column 4 lines 7, 60 - column 5 line 10 ; column 6 lines 13 – column 7 line 33 – column 8 lines 47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Phillips et al. with the teachings of Nassar so that the packet communication clients which are associated with unique IDs as disclosed above in Phillips et al.

can be associated with a single service node such as a single PSDN (Phillips et al., column 9 lines 60 – 63) or uniquely associated with several distinct service nodes (Nassar, routers used to access additional service providers, Fig.1, 120 and 125; column 5 lines 1 – 10) for the purpose of providing packet- based services to a communication device using different service providers.

For claims 2 and 23, Phillips et al. further discloses a user interface associated with the control system wherein the user interface and the control system are adapted to cooperate to provide a single interface for each of the plurality of communication clients (Phillips et al., column 6 lines 24 - 34).

For claims 3 and 24, Phillips et al. further discloses wherein a user selects certain of the plurality of packet communication clients that are active at any given time (Phillips et al., column 7 lines 16 – 27).

For claims 7 and 28, Phillips et al further discloses wherein the control system is further adapted to register each of the plurality of packet communication clients with at least one service node to enable communications (Phillips et al., column 9 lines 40 – column 10 line 25).

For claims 8 and 29, Phillips et al. and Nassar further discloses wherein the control system is further adapted to register certain of the plurality of packet communication clients with different service nodes (Phillips et al., column 9 lines 40 – column 10 line 25) (Nassar, column 6 lines 13 – column 7 line 33, line 47 – column 8 lines 47).

For claims 10 and 31, Phillips et al. further discloses wherein the at least one packet communication interface facilitates wireless communications (Phillips et al., column 3 lines 4 -

For claims 19 and 40, Phillips et al. further discloses wherein the unique IDs are Session Initiation Protocol IDs (Phillips et al., column 7 lines 3 - 8; column 9 lines 60 - 67).

For claims 20 and 41, Nassar further discloses wherein different one of the packet communications are established through different access points in different locations (Nassar, column 6 lines 13 – column 7 line 33, line 47 – column 8 lines 47).

For claims 21 and 42, Phillips et al. further discloses wherein each of the plurality of packet communication clients may initiate and terminate communication sessions (Phillips et al, column 6 lines 47 – 58; column 9 lines 60 – column 10 line 5; column 11 lines 34 - 37).

2. Claims 4- 6, 11 – 18, 25 - 27, and 32 - 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. (US 7,454,206) in view of Nassar (US 6,801,528), and further in view of Yach et al. (US 2002/0128036).

For claims 4, 6, 25, and 27, Phillips et al. fails to teach wherein the control system is further adapted to combine certain communication information associated with the packet communications into a common database and make the communication information available to a user via the user interface. However, Yach et al. discloses a system and a method for the purpose of integrating voice and data operations into a single mobile device wherein certain communication information associated with the packet communications for each of a plurality of packet communication clients are combined into a common database and made available to a user via the user interface (Yach et al., i.e. unified event list, Abstract; [0061] [0068 - 0072] [0074] [0118 - 0124]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Phillips et al. with the teachings of Yach et al. to combine the certain communication information associated with the packet communications for each of a plurality of packet communication clients are combined into a common database and make it available to a user via the user interface for the purpose of integrating data operations into a single mobile device.

For claims 5 and 26, Phillips et al. fails to teach wherein the control system is further adapted to combine certain communication information associated with the packet communications into a separate database and make the communication information available to a user via the user interface. However, Yach et al. discloses a system and a method for the purpose of integrating voice and data operations into a single mobile device wherein certain communication information associated with the packet communications for each of a plurality of packet communication clients are combined into a separate database and made available to a user via the user interface (Yach et al., i.e. contact database, Abstract; [0061] [0068 - 0072] [0100]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Phillips et al. with the teachings of Yach et al. to combine the certain communication information associated with the packet communications for each of a plurality of packet communication clients are combined in separate databases and make it available to a user via the user interface for the purpose of integrating data operations into a single mobile device.

For claims 11 and 32, Phillips et al. fails to teach wherein the at least one packet communication interface facilitates wired communications. However, Yach et al. discloses a method for the purpose of integrating voice and data operations into a single mobile device wherein the at least one packet communication facilitates wired communications (Abstract; [0073]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Phillips et al. with the teachings of Yach et al. to include a wired connection on the wireless disclosed above in Phillips et al. for the purpose of providing wired, packet communications.

For claims 12 -13 and 33 - 34, Phillips et al. fail to explicitly disclose a cellular or non-packet communication interface associated with the control system, the control system further adapted to provide at least one cellular or non-packet communication client associated with a directory number and establish a cellular or non-packet communications via the non-packet communication interface. However, Yach et al. discloses a system and a method for the purpose of integrating voice and data operations into a single mobile device wherein a control system is further adapted to provide at least one cellular or non-packet communication client and establish cellular or non-packet communications via the cellular or non-packet interface (voice communication module, Fig.2c, 24A; Abstract; [0008] [0010] [0036] [0061 - 0065] [0068 - 0072]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Phillips et al. with the teachings of Yach et al. so

that the wireless device which communicates through a cellular network using a directory number disclosed in Phillips et al. (MSID, column 3 lines 4 - 23; column 9 lines 40 - 50) comprises a cellular or non-packet interface associated with the control system for the purpose of establishing cellular or non-packet communications with at least one cellular or non-packet communication clients via the at least one cellular or non-packet communications interface.

For claims 14 and 35, Yach et al. further discloses a user interface associated with the control system wherein the user interface and the control system are adapted to cooperate to provide a common interface for each of the plurality of packet communication clients and the at least one non-packet communication client (Yach et al, Abstract; [0061] [0068 - 0072]).

For claims 15,17, 36, and 38, Yach et al. further discloses wherein the control system is further adapted to combine certain communication information associated with the packet and non-packet communication for each of the plurality of packet communication clients and the at least one non-packet communication client into a common database and make the communication information available to a user via the user interface (Yach et al., i.e. unified event list, Abstract; [0061] [0068 - 0072] [0074] [0118 - 0124]).

For claims 16 and 37, Yach et al. further discloses wherein the control system is further adapted to combine certain communication information associated with the packet and non-packet communication for each of the plurality of packet communication clients and the at least one non-packet communication client into a separate database and make the communication information available to a user via the user interface (Yach et al., i.e. contact database, Abstract; [0061] [0068 - 0072] [0100]).

For claims 18 and 39, Yach et al. further discloses wherein the communication information includes at least one of the group consisting of call logs, messages, contact information, and directory information (Yach et al., [0011] [0046] [0056] [0057] [0068] [0071] [0117]).

3. Claims 9 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips et al. (US 7,454,206) in view of Nassar (US 6,801,525), and further in view of Westman et al. (US 2004/0122934).

For claims 9 and 30, Phillips et al. fails to teach wherein a first of the plurality of packet communication clients is associated with a personal communication ID and second of the plurality of packet communication clients is associated with a business related communication ID. However, Westman discloses a personal device wherein device configures rifles for and register several unique IDs including a personal communication ID and a business relate communication ID for the purpose of facilitating communications with the personal communication device (Westman et al., Fig.3, [0006] [0009]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the teachings of Phillips et al. with the teachings of Westman so that the packet communication clients are associated with a personal communication ID and business related communication ID for the purpose of facilitating communications the personal communication device.

(10) Response to Argument

Regarding 35 U.S.C 103(a) Rejection of claims 1-3, 7, 8, 10, 19 -24, 28, 29, 31, and 40 -42, Appellant makes the following arguments: "Neither reference, either alone or in combination, discloses or suggests 'providing a plurality of communication clients associated with unique IDs, where each unique IDS are uniquely associated with distinct service nodes'". (Appeal Brief, page 11 lines 20 – 23).

The examiner respectfully disagrees. Phillips discloses a personal communication device with a packet communication interface and packet communication clients associated with a unique ID to facilitate packet communications (column 1 lines 47 – column 2 line 2; column 6 lines 10 - column 8 line 2). Phillips does not teach that the unique IDS are uniquely associated with distinct service nodes. However, as stated in the Final Office action, Nassar discloses associating unique IDs with a distinct service provider accessed through and connected to a distinct service node, a router (column 2lines 11 - 41; column 3 lines 44 - column 4 lines 7, 60 – column 5 lines 10; column 6 lines 13 - column 7 line 33 - column 8 lines 47). In response to appellant's arguments that there is not disclosure or suggestion within the references, either alone or in combination, of providing a plurality of communication clients associated with unique IDS, where each unique IDs are uniquely associated with the distinct service node, the examiner directs the Appellant to the Chapter 2111 of M.P.E.P, 2111.05, which states

Though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description

may not be read into a claim when the claim language is broader than the embodiment.”

Superguide Corp. v. DirecTV Enterprises, Inc., 358 F.3d 870, 875, 69 USPQ2d1865,

1868 (Fed. Cir. 2004). See also Liebel-Flarsheim Co. v. Medrad Inc., 358

F.3d 898, 906, 69 USPQ2d 1801, 1807 (Fed. Cir. 2004) (discussing recent cases

wherein the court expressly rejected the contention that if a patent describes only a single embodiment, the claims of the patent must be construed as being limited to that

embodiment);< E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67

USPQ2d 1947, 1950 (Fed. Cir. 2003)

In interpreting this claim limitation “ unique IDS uniquely associated with a distinct service node”, the broadest reasonable interpretation of the term “associated” is -- a relationship -- which is consistent with the specification. However, the term “associated” can encompass at least two degrees of relationship between the unique IDS and the distinct service node, including a direct relationship wherein the unique IDS are registered to the distinct service node and an indirect relationship as disclosed above in Nassar wherein a unique ID is registered to a service provider which is reached through a service node distinctly and uniquely connected to the service provider, wherein communicating with a service provider requires using a unique ID which routes to the distinct service node as gateway to the service provider. The aforementioned passage of the MPEP states that it is improper to import limitations that are not a part of the claim, for example a narrow embodiment can not be read into the claim language with a broader embodiment. On page 13 lines 7 - 23, Appellant argues that the specification indicates that there is a direct relationship between the unique IDS and the distinct service nodes. However, since

the claim limitation “unique IDS uniquely associated with a distinct service node” can broadly encompass at least two different types of relationships, direct and indirect, it would be improper to import the limitations cited by Appellant on page 13 lines 7 - 23 and within paragraph 19 of the specification into the claim language.

Therefore, Nassar suggests or discloses the claim limitation, “unique IDS uniquely associated with a distinct service node” since the distinct service node or router as discussed above and in the Final Office action is uniquely associated with the unique ID.

Regarding 35 U.S.C 103(a) 4- 6, 11 – 18, 25 – 27, and 32 – 39, Appellant maintains the same argument for these claims. Therefore, the above discussion for claims 1-3, 7, 8, 10, 19 -24, 28, 29, 31, and 40 -42 is the same for claims 4- 6, 11 – 18, 25 – 27, and 32 – 39.

Regarding 35 U.S.C 103(a) 9 and 30, Appellant maintains the same argument for these claims. Therefore, the above discussion for claims 1-3, 7, 8, 10, 19 -24, 28, 29, 31, and 40 -42 is the same for claims 9 and 30.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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